

FILED
Clerk
District Court

JAN - 6 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)	Criminal No. 04-00038
)	
Plaintiff)	
)	
v.)	
)	ORDER DENYING MOTION
ERIC JOHN TUDELA MAFNAS)	TO DISMISS INDICTMENT
and CHARLEY K. PATRIS,)	
)	
Defendants)	
_____)	

THIS MATTER came before the court on Friday, January 6, 2006, for hearing of defendant Mafnas' motion to dismiss the indictment. Defendant Patris joined in the motion. Plaintiff appeared by and through its attorney, Assistant U.S. Attorney Timothy E. Moran; defendant Mafnas appeared personally and by and through his attorney, Howard Trapp; and, defendant Patris appeared personally and by and through his attorney, G. Anthony Long.

1 THE COURT, having considered the evidence presented and the oral
2 arguments of counsel, denies defendants' motion to dismiss the indictment.

3
4 Defendants, both former police officers, are being detained on the island of
5 Guam pending sentencing after being found guilty of criminal charges by a jury.
6 They seek dismissal of the original indictment against them as a remedy for
7 constitutional rights violations they have allegedly experienced while in detention.
8

9 Defendants were unable to supply to the court any authority whatsoever that a
10 permissible post-conviction, pre-sentencing remedy for alleged constitutional
11 violations is dismissal of the indictment against them. Because the court was given
12 no authority, and could find no authority itself, the motion is denied. Additionally,
13 defendants' characterization of their conditions of detention as "punishment" was
14 not proved under *any* standard of proof. Whatever grievances they may have (and,
15 again, none were proved today), this motion was not the proper avenue for the
16 resolution of those grievances.
17
18

19 IT IS SO ORDERED.
20

21 DATED this 6th day of January, 2006.
22

23
24 
25 ALEX R. MUNSON
26 Judge